IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5090 of 1995

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MARYADABEN SOMABHAI VASAVA

Versus

INSPECTOR GENERAL OF POLICE

Appearance:

1. Special Civil Application No. 5090 of 1995

MR JOY MATHEW for Petitioner No. 1

NOTICE SERVED for Respondent No. 1,2

Mr. H.M. Prachchhak, AGP for Respondent No. 2

MR JV BHAIRAVIA for Respondent No. 3

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 16/12/2004

ORAL JUDGEMENT

1. This petition under Article 226 of the

Constitution of India is filed by the father of a minor tribal girl, who was, at the relevant point of time, molested by the respondent No.3, a PSI of Rajpipla Police Station. Allegations were levelled against the respondent No.3 and appropriate criminal proceedings were initiated on a complaint filed by the petitioner against the respondent No.3. It is further alleged that the minor girl, her mother and her brother were beaten up by the respondent No.3.

2. With regard to the said incident, First Information Report dated 5th March 1994 came to be registered and further proceedings are pending before the Court of the learned Judicial Magistrate, First Class, Rajpipla. A prayer was made by the petitioner to direct the respondents Nos. 1 and 2 not to revoke the order of suspension of the respondent No.3 who was placed under suspension for the alleged incident. According to the petitioner, the respondent No.3, if allowed to remain on active duty on the post of PSI, is likely to threaten the complainant and her relatives and also he is in a position to influence the witnesses at the trial. Therefore, according to the petitioner, revokation of the order of the suspension of the respondent No.3 was illegal and the respondents Nos. 1 and 2 ought to have continued the respondent No.3 under suspension.

3. Learned Assistant Government Pleader, Mr. H.M. Prachchhak, has submitted that revocation of the order of suspension of the respondent No.3 was done pursuant to the order passed by the IGP, Vadodara Range, Vadodara, and the respondent No.3 was posted at Godhra, a place away from the place of the alleged incidents. Thereafter, the respondent was again placed under suspension and it was also revoked and, at present, the respondent No.3 is performing his duties in the Office of the Director General of Police. The learned Assistant Government Pleader, Mr. H.M. Prachchhak, states that the evidence of the complainant and other witnesses in the trial pending in the Court of the learned Judicial Magistrate, Rajpipla, is already over and the evidence of the concerned police inspector and the doctor is yet to be recorded. In such circumstances, the question of influencing witnesses does not arise and the respondent No.3 is now under direct supervision and control of the Director General of Police.

4. Learned advocate, Mr. Joy Mathew, for the petitioner, has still some apprehension about influencing the capacity of the respondent No.3 since he is on active duty and he need not required to be continued as such.

He, therefore, submitted that the respondent No.3 should not be allowed to perform duty on the sensitive post of Police Inspector in the police department.

5. Heard the learned advocates for the parties.

6. It is an admitted fact that the trial before the Court of the learned Judicial Magistrate, First Class, Rajpipla, is on, and majority of witnesses had already been examined including the complainant and her relatives and the evidence of the concerned police inspector and the doctor is to be recorded. The trial was lastly conducted on 13th December 2004, and the further proceedings will take place in due course. Therefore, when the incident had taken place in October 1994 and the respondent No.3 is away from the place of incident and under direct supervision and control of the Director General of Police and the evidence is virtually over, the apprehension of the learned advocate of the petitioner is not justified. It is open for the petitioner to immediately apprise the Director General of Police, State of Gujarat, in case any threat is administered by the respondent No.3 with regard to the subject matter, and, in such case, the Director General of Police, State of Gujarat, may take appropriate action in accordance with law. It is unfortunate that the redressal of the grievance of a minor tribal girl is not yet over and she remains under the agony of the trial and its outcome. When the trial is on the verge of completion, it is not proper to give any direction at this stage. It is hoped that the trial pending in the Court of the learned Judicial Magistrate, First Class, Rajpipla, will be over as early as possible.

7. With these observations, no further order is required to be passed. The petition is rejected. Rule is discharged with no order as to costs.

(Anant S. Dave, J.)
(swamy)